

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed Emergency After Notice**

**Rule making related to beginning farmer tax credit program**

The Iowa Finance Authority hereby amends Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 16.5 and 16.81.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 16.77, 16.79A, 16.81 and 16.82 as amended by 2021 Iowa Acts, Senate File 619.

*Purpose and Summary*

Division XIX of 2021 Iowa Acts, Senate File 619, amended various elements of the Beginning Farmer Tax Credit Program to encourage the increased utilization of the tax credit by allowing eligible taxpayers and beginning farmers to enter into leases solely for the transfer of agricultural improvements, allowing eligible taxpayers to participate in the program for 15 years, allowing eligible taxpayers to enter into agreements with different qualified beginning farmers, and changing the cap on the tax credit so eligible taxpayers are limited to \$50,000 per lease agreement, rather than \$50,000 for all agreements. This rule making is adopted to conform Chapter 44 to the changes outlined in 2021 Iowa Acts, Senate File 619.

This rule making also adopts a change to the fee schedule. The change to the fee schedule for beginning farmer tax credit applications is prompted by Iowa Code section 16.81, which set forth a fee schedule that remained in place on an interim basis until December 31, 2021, after which the fee schedule is no longer in effect. Iowa Code section 16.81 requires that the Authority adopt rules to “impose, assess, and collect application fees.”

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 1, 2021, as **ARC 6067C**.

The Authority received comments from Christina Gruenhagen on behalf of Farm Bureau. With respect to Item 1 of the published Notice, Ms. Gruenhagen expressed concern that the definition of “agricultural asset” in the Authority’s Notice differed from 2021 Iowa Acts, Senate File 619, in a way that would imply that crops or livestock must be depreciable to qualify as an agricultural asset. With respect to Item 4 of the published Notice, which sets forth the fee schedule, Ms. Gruenhagen requested that the Authority clarify the language describing the fees and label the accompanying table with a descriptive title. Ms. Gruenhagen also requested that the Authority write out an equation for the calculation of the fees.

In response to the comments received, Item 1 has been revised so that the definition of “agricultural asset” corresponds more closely to the definition as amended by Senate File 619. Item 4 has been revised to add a title and labels to the accompanying table. The Authority determined that the table is clear and sufficient for the purpose of informing potential applicants of the fees. In lieu of including a written equation, the Authority has revised paragraph 44.6(3)“f” to clarify that the table should be used to calculate the amount of fees owed.

### *Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 7, 2022, because these amendments confer a benefit to Iowans who wish to begin farming in Iowa and eligible taxpayers by making the tax credit more attractive and increasing the incentive to eligible taxpayers to lease land to beginning farmers. In addition, the fees collected from applicants pay for the administration of the program. If fees cannot be collected from applicants, the Authority’s ability to effectively administer this program would be negatively impacted.

### *Adoption of Rule Making*

This rule making was adopted by the Authority on January 5, 2022.

### *Fiscal Impact*

The fees are expected to have a fiscal impact of less than \$100,000 annually or \$500,000 over five years.

### *Jobs Impact*

The Authority anticipates that the benefits offered by the amendments to the program may encourage more new farmers to begin farming in Iowa.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making became effective on January 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule ~~265—44.2(16)~~, definitions of “Agricultural asset,” “Agricultural improvements,” “Agricultural land” and “Agricultural lease agreement,” as follows:

“*Agricultural asset*” means agricultural land located in this state, ~~including~~ any agricultural improvements, depreciable agricultural property, machinery, equipment, ~~and other depreciable agricultural property~~ crops, or livestock.

“*Agricultural ~~improvements~~ improvement*” means any improvements, including buildings, structures or fixtures suitable for use in farming ~~which are~~ if located on any size parcel of agricultural land. “Agricultural improvements” ~~includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.~~

“*Agricultural land*” means land located in Iowa suitable for use in farming, any portion of which may include an agricultural improvement, and which is or will be operated as a farm.

*“Agricultural lease agreement” or “agreement”* means an agreement for the transfer of agricultural assets, ~~that must at least include a lease of agricultural land,~~ from an eligible taxpayer to a qualified beginning farmer as provided in ~~2019 Iowa Acts, House File 768, section 9~~ Iowa Code section 16.79A.

ITEM 2. Amend subparagraph **44.6(1)“a”(5)** as follows:

(5) The taxpayer is not a partner of a partnership, shareholder of a family farm corporation, or member of a family farm limited liability company that is the lessee of an agricultural asset that is part of an agricultural lease agreement. If a beginning farmer has an ownership interest in the agricultural asset that does not exceed 10 percent, the tax credit award is reduced by an amount equivalent to the beginning farmer’s ownership percentage. For example, if a beginning farmer owns 9 percent of an agricultural asset that is the subject of the agricultural lease agreement, the tax credit award is reduced by 9 percent.

ITEM 3. Amend paragraph **44.6(2)“a”** as follows:

a. A beginning farmer tax credit is allowed only for agricultural assets that are subject to an agricultural lease agreement entered into by an eligible taxpayer and a qualifying beginning farmer participating in the beginning farmer tax credit program established pursuant to ~~2019 Iowa Acts, House File 768, section 7~~ Iowa Code section 16.78. The tax credit is allowed regardless of whether the principal agricultural asset is soil, pasture, or a building or other structure used in farming.

ITEM 4. Adopt the following **new** paragraphs **44.6(3)“f”** and **“g”**:

f. Upon submission of the application or a request to amend an agricultural lease agreement, the authority shall collect the application fee. The authority shall collect fees in the amounts based upon the acreage of the land that is the subject of the agreement and the length of the lease, as indicated in the chart below.

**Application Fees Chart**

Leased Acres	Length of Lease in Years			
	2	3	4	5
<b>100 or fewer</b>	\$300	\$350	\$400	\$450
<b>101 to 250</b>	\$400	\$450	\$500	\$550
<b>251 or more</b>	\$500	\$550	\$600	\$650

g. For any amendment to a previously approved agricultural lease agreement, an amendment fee of \$100 shall be paid at the time the amendment is submitted.

ITEM 5. Amend subrule 44.6(4) as follows:

**44.6(4) Requirements of an agricultural lease agreement.**

a. The agricultural lease agreement must meet the following requirements:

(1) The agreement must include the lease of agricultural land located in this state, ~~including any or agricultural improvements, located in this state~~ and may provide for the rental of agricultural equipment as defined in Iowa Code section 322F.1.

(2) The agreement must include provisions which describe the consideration paid for the agreement in a manner that allows the authority to calculate the value of the lease in order to determine the tax credit amount as provided in ~~2019 Iowa Acts, House File 768, section 11~~ Iowa Code section 16.82.

(3) No change.

(4) The agreement must be for at least two years, but not more than five years. The agreement may be renewed any number of times by the eligible taxpayer and qualified beginning farmer for a term of at least two years, but not more than five years. At the end of the approved agricultural lease agreement term, a new application must be submitted to the authority. However, an eligible taxpayer shall not participate in the program for more than 15 years. For the purposes of this subparagraph, an eligible taxpayer first participating in the beginning farmer tax credit program on or after January 1, 2019, as provided in 2019 Iowa Acts, chapter 161, for a tax year beginning on or after that date, may also participate in the program for not more than 15 years.

(5) No change.

b. An eligible taxpayer may apply and be approved to enter into agreements with different qualified beginning farmers.

~~b. c.~~ The agreement cannot be assigned, and the agricultural land subject to the agreement shall not be subleased.

~~c. d.~~ The agricultural assets shall not be leased or rented at a rate that is substantially higher than the market rate for similar agricultural assets leased or rented within the same community. As used in this paragraph, when referring to an agricultural asset that is cropland, “substantially higher” means not more than 30 percent above the average cash rent paid for cropland rented in the same county according to the most recent cash rent survey for cropland published by a unit of Iowa State University of Science and Technology recognized by the authority.

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